

FILED
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RICHARD S. ROSS, CLERK

**IN THE CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE
THE TWENTIETH JUDICIAL DISTRICT AT NASHVILLE**

**In Re the State of Tennessee Office
of Attorney General and Reporter's
Investigation of: MARCUS JONES,
individually and doing business as
JONES MEMORIALS and/or HALF
OFF STONES, and the owners, officers,
directors, agents, assigns, representatives)
and employees of MARCUS JONES,)
JONES MEMORIALS and)
HALF OFF STONES)**

)  D.C.

No. 08C3494

**AMENDED MOTION / PETITION FOR AN ORDER TO COMPEL
COMPLIANCE WITH THE STATE'S REQUEST FOR CONSUMER
PROTECTION INFORMATION**

Pursuant to Tenn. Code Ann. § 47-18-106(c), the State of Tennessee, by and through Robert E. Cooper Jr., the Attorney General and Reporter for the State of Tennessee, on behalf of Mary Clement, the Director of the Division of Consumer Affairs of the Tennessee Department of Commerce and Insurance, files this Amended Motion / Petition to update the facts and correct inadvertent errors in the original Petition for an Order to Compel Compliance with the State's Request for Consumer Protection Information, filed October 22, 2008, and to apply, pray and move this Court for an Order compelling Marcus Jones, individually and doing business as Jones Memorials and Half Off Stones, and the owners, officers, directors, agents, assigns, representatives and employees (collectively referred to as "Defendants") thereof to fully comply with the State's Request for Consumer Protection Information. This Amended Motion / Petition constitutes the notice contemplated in Tenn. Code Ann. § 47-18-106(c) and i(2).

FACTUAL ALLEGATIONS

Upon information and belief, the State's grounds for this Amended Motion / Petition are as follows:

1. At the request of the Tennessee Division of Consumer Affairs, the Tennessee Attorney General commenced an investigation under the Tennessee Consumer Protection Act of 1977 into allegations that Defendants have engaged in unfair, misleading and deceptive conduct in whole or in part in the State of Tennessee.

2. Defendant Jones Memorials is headquartered in Nashville, Tennessee at 3918 Dickerson Road, Suite 108. Defendant Jones Memorials is generally engaged in the business of selling headstones, grave markers and other cemetery items, primarily over the Internet to consumers.

3. The Tennessee Division of Consumer Affairs has received twenty-eight (28) consumer complaints against Defendants.

4. The Better Business Bureau of Middle Tennessee has processed eighty-one (81) national consumer complaints filed against Defendants and has listed Defendants as having an unsatisfactory record.

5. On September 18, 2008, the State served a Request for Consumer Protection Information ("Request") on Defendant Marcus Jones, the owner and operator of Jones Memorials. A copy of the State's Request is attached as Exhibit A.

6. The Request was served via United States postal service, certified mail, pursuant to Tenn. Code Ann. § 47-18-106(i)(2). Service was confirmed by the tracking number 7007 0220 0000 2997 1415 on September 18, 2008. The Request included a demand for information and documents pursuant to Tenn. Code Ann. § 47-18-106(a)(1).

7. The Request's production deadline date for the information and documents was set for September 29, 2008.

8. The State received no documents required for production on September 29, 2008 and to date has received no information from Defendants.

9. The Request also included a request for Marcus Jones to appear before the Attorney General and Reporter's designated representative, for the purpose of giving sworn testimony, pursuant to Tenn. Code Ann. § 47-18-106 (a)(2).

10. The date and time established for the giving of sworn testimony was 10:30 a.m. on October 1, 2008, at the Office of the Attorney General and Reporter in Nashville, Tennessee.

11. Marcus Jones did not appear or respond and sworn testimony was not given by Jones Memorials as required on October 1, 2008. The court reporter's transcript from October 1, 2008 is attached as Exhibit B. The cost of the court reporter appearing for the scheduled sworn statement was Ninety Dollars and 00/100 (\$90.00).

12. Defendants have not, pursuant to Tenn. Code Ann. § 47-18-106(b), petitioned for a protective order after being served with the Request, and more than ten (10) days has passed since service of the Request. The time period has expired for Defendants to seek any such protection.

13. This Amended Motion / Petition supersedes the previous Petition filed with this court on October 22, 2008.

PRAYER FOR RELIEF

For the above stated reasons, the State of Tennessee, by and through counsel, applies, prays and moves this Court for the following relief:

A. That this Court issue an order compelling Defendants to immediately provide full and complete responses to the State's outstanding Request for Consumer Protection Information and to compel Defendants to comply with the State's demand for a sworn statement on a date certain during regular business hours of the State at the Attorney General's Office in Nashville, Tennessee.

B. That this Court issue an order prohibiting and enjoining Defendants from avoiding, evading, preventing compliance, in whole or in part with the State's civil investigation

and prohibiting and enjoining Defendants from removing from any place, concealing, withholding, destroying, mutilating, falsifying or by any means altering any documentary material in the possession of Defendants.

C. That this Court, pursuant to Tenn. Code Ann. § 47-18-106(e), enter an Order imposing a remedial civil penalty in the amount of One Thousand Dollars (\$1,000) against Defendants, and award judgment to the State of Tennessee for this amount for which execution may issue for Defendants' failure to respond to the Request and appear for sworn testimony.

D. That this Court set hearing, immediately after the dates set to compel and for testimony, to confirm compliance and/or to consider finding Defendants have not fully complied with the Court's Order, and enter an Order finding Defendants in civil contempt and subjecting Marcus Jones, individually and doing business as Jones Memorials, to additional remedial civil penalties, attorneys' fees and costs, sanctions and remedies as this Honorable Court deems appropriate to bring Defendants into compliance with the Court's Order.

E. That this Court, pursuant to Tenn. Code Ann. § 47-18-108(b)(4), order Defendants to pay the State Attorney General for the reasonable costs, including attorneys fees, of preparing and filing this Amended Motion / Petition, preparing for the sworn testimony and attending the sworn testimony, the court reporter costs, any subsequently filed affidavit of counsels and award judgment to the State for such attorneys' fees and costs for which execution may enter and further, order that the State may use such attorneys' fees and costs for consumer protection purposes or other lawful purposes at the sole discretion of the Attorney General.

F. That all costs in this case be taxed against Defendants; and

G. That this Court grant Plaintiff such other and further relief as this Court deems just and proper.

NOTICE OF HEARING:

THIS AMENDED MOTION / PETITION WILL BE HEARD ON November 14, 2008 AT 9:00 A.M. CDT IN CIRCUIT COURT LOCATED AT 1 PUBLIC SQUARE # 502, NASHVILLE, TN 37201. FAILURE TO RESPOND WILL RESULT IN THE AMENDED MOTION / PETITION BEING GRANTED UPON A PROPER SHOWING.

RESPECTFULLY SUBMITTED,

ROBERT E. COOPER, Jr.
Attorney General and Reporter



JOHN S. SMITH, III

B.P.R. No. 023392

Assistant Attorney General

Office of the Tennessee Attorney General

Consumer Advocate and Protection Division

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Nashville, TN 37202-0207

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Facsimile: (615) 532-2910

E-mail: John.Smith@ag.tn.gov

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing Document Filing has been forwarded by electronic mail to marcusdonjones@aol.com and via certified mail, postage prepaid, to:

MARCUS JONES, Individually
and doing business as Jones Memorials / Half Off Stones
3311 Hawkwood Lane
Nashville, TN 37207-2112

on this the 30th day of October, 2008.



Assistant Attorney General